IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9143 OF 2004

Hanmant Vasant Yadav
Aged 21 years, Occupation
Student, residing at Dhondewadi
Post Mohi, Taluka Khanapur,
Dist. Sangli. ..Petitioner

V/s.

1. Additional DIGP Group
C.R.P.F. Talegaon,
(Dabhade) Pune-410 507

2. The Dy.Inspector General
of Police, Pune Range,
C.R.P.F., Talegaon,
(Dabhade), Pune-410 507

3. Union of India ..Respondents

Mr.Mangesh Shrisute i/by Nitin R.Jadhav for the petitioner.

Mr.N.V.Masurkar i/by S.S.Sarkar for Respondent Nos.1 to 3.

Coram : R.M.LODHA &
R.S.MOHITE,JJ

Date : 19.4.2005.

PC

Oral Judgment :- (Per : R.M.Lodha,J)

. Heard.

2. Rule. Returnable forthwith. The learned Counsel N.V.Masurkar waives service for respondent nos.1 to 3.

3. By consent of the learned Counsel, rule is heard finally at this stage.

4. The petitioner was issued provisional letter of appointment to the post of CT/GD by GC-CRPF, Pune dated 29.5.2004 with the direction to the petitioner to report on or before 14.6.2004 before the Group Centre CRPF for medical examination of the Chest X-ray. The petitioner reported in group centre on CRPF on 14.6.2004 and was sent to station hospital for examination of chest x-ray as the station hospital did not have x-ray facility. The chest x-ray of the petitioner was taken from Dr.Bhausaheb Sardesai Rural hospital, Talegaon on 15.6.2004. The x-ray report showed that the petitioner was suffering from "bifid 4th rib (right) anterior end". The petitioner was declared medically unfit for enlistment in CRPF by a Board of three Medical officers. The petitioner was informed that he has right to prefer an appeal to the Deputy Inspector General, CRPF, Pune within one month for re-medical examination on a payment of fee of Rs.50/-. The petitioner preferred the appeal on 2.7.2004 alongwith copies of medical examination report of chest x-ray dated 18.6.2004. The appeal came to be rejected by DIG CRPF vide letter dated 13.7.2004 on

the ground that the petitioner had not sent the requisite fee for re-medical examination alongwith appeal. The petitioner preferred another appeal dated 24.7.2004 alongwith a postal order of Rs.50/- to the Deputy Inspector General, CRPF. The said appeal also came to be rejected. Hence, the present Writ petition.

5. In our considered view, the appeal preferred by the petitioner for re-medical examination was rejected on hyper technical ground of non payment of fee of Rs.50/-. If the appeal preferred by the petitioner suffered from any objection or deficiency of payment of fee, an opportunity ought to have been given to the petitioner to remove the objection or make up the deficiency. It seems that after rejection of the First appeal, the petitioner did prefer 2nd appeal and alongwith that 2nd appeal fee of Rs.50/- by way of postal order was paid. The said appeal came to be rejected because petitioner’s appeal had already been rejected earlier. In our considered view, the petitioner’s appeal for re-medical examination deserves to be re-considered by the appellate authority viz. Deputy Inspector General, CRPF.

6. We, accordingly, dispose of the Writ petition by following order :-

O R D E R

1. The petitioner’s appeal dated 2.7.2004 is restored before the Deputy Inspector General, CRPF, Pune.

2. The fee of Rs.50/- paid by the petitioner by way of Indian postal order in the appeal preferred on 24.7.2004 shall be treated as the fee for maintaining the appeal preferred by the petitioner on 2.7.2004.

3. The Deputy Inspector General, CRPF shall consider the petitioner’s appeal for re-medical examination in accordance with law uninfluenced by the earlier order.

4. No costs.

(R.M.LODHA,J)

(R.S.MOHITE,J)